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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,143	08/09/2001	Robert B. Schock	DATA_53_CIP	3516

7590

10/03/2003

Datascope Corp.  
14 Philips Parkway  
Montvale, NJ 07645

EXAMINER
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PATEL, NIHIR B

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 10/03/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/925,143

Applicant(s)

SCHOCK ET AL.

Examiner

Nihir Patel

Art Unit

3743

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on August 25<sup>th</sup>, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 9-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Response to RCE Arguments*

1. Applicant's arguments with respect to amended claim 1 has been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. US Patent No. 5,865,721 in view of Stevens et al. US Patent No. 5,916,193.

Referring to claims 1 and 4, Andrews discloses the applicant's invention as claimed with the exception of providing a single lumen balloon catheter.

Stevens discloses an endovascular cardiac venting catheter and method that does provide a single lumen balloon catheter. Therefore it would be obvious to modify Andrews's invention by providing a single lumen balloon catheter in order to provide a stronger delivery.

Claims 9, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. U.S. Patent No. 5,865,721 in view of Valley et al. U.S. Patent No. 5,795,325.

Referring to claim 9, Andrews discloses the applicant's invention as claimed with the exception of providing a fiberoptic sensor and a fiberoptic fiber, the fiberoptic sensor being fixed to the balloon catheter, the fiberoptic fiber extending from the sensor through a space defined by

the balloon membrane and through a gas shuttle lumen defined by the tube, the fiber being secured to the stylet.

Valley discloses methods and apparatus for anchoring an occluding member that does provide a fiberoptic sensor and a fiberoptic fiber, the fiberoptic sensor being fixed to the balloon catheter, the fiberoptic fiber extending from the sensor through a space defined by the balloon membrane and through a gas shuttle lumen defined by the tube, the fiber being secured to the stylet. Therefore it would be obvious to modify Andrews's invention by providing a fiberoptic sensor and a fiberoptic fiber, the fiberoptic sensor being fixed to the balloon catheter, the fiberoptic fiber extending from the sensor through a space defined by the balloon membrane and through a gas shuttle lumen defined by the tube, the fiber being secured to the stylet in order to obtain accurate results.

Referring to claim 10, Andrews discloses the applicant's invention as claimed with the exception of providing a fiberoptic sensor, a fiberoptic fiber and a thin walled tube disposed over the stylet, the fiberoptic sensor being fixed to the balloon catheter, the fiberoptic fiber extending from the sensor through a space defined by the balloon membrane and through a gas shuttle lumen defined by the tube, the fiberoptic fiber being sandwiched between the stylet and the thin walled tube disposed over the stylet.

Valley discloses methods and apparatus for anchoring an occluding member that does provide a fiberoptic sensor, a fiberoptic fiber and a thin walled tube disposed over the stylet, the fiberoptic sensor being fixed to the balloon catheter, the fiberoptic fiber extending from the sensor through a space defined by the balloon membrane and through a gas shuttle lumen defined by the tube, the fiberoptic fiber being sandwiched between the stylet and the thin walled

tube disposed over the stylet. Therefore it would be obvious to modify Andrews's invention by providing a fiberoptic sensor, a fiberoptic fiber and a thin walled tube disposed over the stylet, the fiberoptic sensor being fixed to the balloon catheter, the fiberoptic fiber extending from the sensor through a space defined by the balloon membrane and through a gas shuttle lumen defined by the tube, the fiberoptic fiber being sandwiched between the stylet and the thin walled tube disposed over the stylet in order to obtain accurate results.

Referring to claim 11, Andrews discloses the applicant's invention as claimed with the exception of providing a fiberoptic sensor and a fiberoptic fiber, the fiberoptic sensor being fixed to the balloon catheter, the fiberoptic fiber extending from the sensor through a space defined by the balloon membrane and through a gas shuttle lumen defined by the tube, the fiber being embedded in the stylet.

Valley discloses methods and apparatus for anchoring an occluding member that does provide a fiberoptic sensor and a fiberoptic fiber, the fiberoptic sensor being fixed to the balloon catheter, the fiberoptic fiber extending from the sensor through a space defined by the balloon membrane and through a gas shuttle lumen defined by the tube, the fiber being embedded in the stylet. Therefore it would be obvious to modify Andrews's invention by providing a fiberoptic sensor and a fiberoptic fiber, the fiberoptic sensor being fixed to the balloon catheter, the fiberoptic fiber extending from the sensor through a space defined by the balloon membrane and through a gas shuttle lumen defined by the tube, the fiber being embedded in the stylet in order to obtain accurate results.

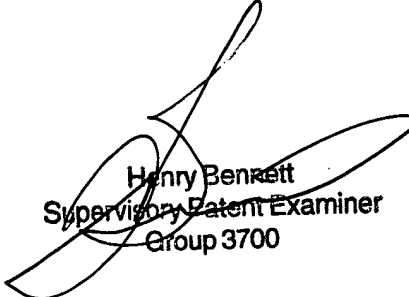
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***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Nihir Patel whose telephone number is (703) 306-3463. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful the examiner supervisor Henry Bennett can be reached at (703) 308-0101.

NP  
September 24, 2003

  
Henry Bennett  
Supervisory Patent Examiner  
Group 3700